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N. KENNETH BURRASTON  
KIRTON & MCCONKIE  
P.O. BOX 45120  
SALT LAKE CITY UT 84145-0120

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**JUN 05 2006**

**OFFICE OF PETITIONS**

In re Application of	:	
Gaetan L. Mathieu et al.	:	
Application No. 09/547,561	:	DECISION ON PETITION UNDER
Filed: April 12, 2000	:	37 C.F.R. §1.181(A)
Attorney Docket Number: P98-US	:	
Title: SHAPED SPRING	:	

This is a decision on the petition under 37 CFR §1.181(a), filed December 2, 2005, to withdraw the holding of abandonment.

The Office regrets the delay in issuing this decision.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 4, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 5, 2005. A notice of abandonment was mailed on November 2, 2005.

With the present petition, petitioner has asserted that a reply was timely submitted on August 3, 2005, and has provided a copy of this submission.

RELEVANT PORTION OF THE C.F.R.

37 CFR §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

Petitioner has asserted that a response to the notice was timely submitted via facsimile transmission on August 3, 2005. Petitioner has submitted a copy of this response, and it is noted that the fee transmittal sheet, the amendment, and the petition for a one-month extension of time each contains a certificate of facsimile transmission which is dated August 3, 2005. As such, Petitioner has met the requirements of 37 CFR §1.8(b)(1) and (2), in that the Office has been informed of the previous transmission of the correspondence and an additional copy of the same has been provided with this petition.

Petitioner has also included a copy of the sending unit's report which confirms the transmission, however it does not appear that he has included a statement which attests on a personal knowledge basis to the previous timely transmission.

As such, Petitioner has not met the requirements of 37 CFR §1.8(b)(3), and therefore, the correspondence cannot be considered timely filed.

CONCLUSION

The petition must be **DISMISED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail<sup>1</sup>, hand-delivery<sup>2</sup>, or facsimile<sup>3</sup>.

On renewed petition, Petitioner may wish to consider submitting a statement from a party who has firsthand knowledge of the facsimile transmission of August 3, 2005, Ms. Erin Cowles.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



**Paul Shanowski**  
**Senior Attorney**  
**Office of Petitions**  
**United States Patent and Trademark Office**

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.